CONSUMER AWARENESS INSTITUTE

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July 13, 2006 (This letter a revision of the July 1 letter to the FTC)

ATTN: Federal Trade Commission/Office of the Secretary,
Room H-135 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Business Opportunity Rule, R511993

Dear Sir/Madam:

I am writing in response to the proposed New Business Opportunity Rule R511993, which is sorely needed to protect consumers from deceptive pyramid marketing schemes and chain selling schemes (for which I shall use the acronym "MLM" for "multi-level marketing") that have defrauded millions of consumers of tens of billions of dollars – far more than are represented by official complaints received by the Commission – because victims rarely file complaints due to self-blame and fear of self-incrimination or consequences from or to their upline. (See below).

My background and research applies directly to this disclosure rule.

Let me explain why my comments, drawn from over 30 years of education and experience in the field of "business opportunities", should have special relevance for FTC officials. Having taught college classes in management, entrepreneurship, and ethics, and having been a successful salesman and entrepreneur (including sponsorship of an Income Opportunity Show), I was skeptical of chain selling schemes labeled as "network marketing" or "MLM." However, under pressure from respected friends to join various MLM programs in 1994, I decided to do a one-year test of a leading MLM to prove to myself and to others whether or not it was a viable business model.

Though I became successful at recruiting and climbing the ladder of distributors (top 1% of all distributors), I was still losing money after a year (I kept detailed records of all costs). It became apparent that to earn the huge income that was promised, I would have to be at or near the top of the pyramid – and deceive people I recruited about the odds of success. So after carefully considering my situation, I quit MLM and decided to tell the world about my experience and my findings. This led to 12 years of research and reporting on odds of "success" in MLM/pyramid marketing schemes. For my vita, go to – http://www.mlm-thetruth.com/JMTaylorVITA6-6.pdf

My challenge to 60 leading MLM's to disclose earnings of participants remains unmet. But the FTC could require disclosure of information to which voluntary organizations would not have access.

In 1999, upon discovering disturbing evidence of widespread misrepresentations on earnings of participants in MLM, I wrote the presidents of 60 of the largest MLM companies and requested data. They were provided a form for them to demonstrate that they are not a pyramid scheme, based more on loss rates than on structure. Though some tried, officials from none of the 60 companies were able or willing to comply. This challenge, called "The Network Marketing Payout Distribution Study," has been posted on the Internet since 1999, and to this date none of the MLM companies have met the challenge. This is another demonstration of the need for this disclosure rule; government can compel disclosure of critical information for consumers, whereas consumer advocacy groups cannot. The unmet challenge can be downloaded from – http://www.mlm-thetruth.com/NWMpayoutstudy-6-6.pdf

— continued in two columns on the next page —

MLM/pyramid marketing schemes are separate and distinct from legitimate business opportunities or legitimate direct selling programs.

Having taught entrepreneurship, sponsored an Income Opportunity Show and income opportunity directory, and initiated over 40 business startups, I can certify that *MLM are not direct selling programs, but chain selling programs, and are separate and distinct from all other types of business opportunities.* As suggested above, research demonstrates that it is no more appropriate to refer to most MLM's as "business opportunities" than it is to place a "Business Opportunity" sign above gaming tables in Las Vegas. *Please note that the vast majority of the "Public Comments" objections to your proposed disclosure rule come from MLM adherents, not from sponsors of legitimate business opportunities. This is because meaningful disclosure about MLM's or chain sellers could expose the stark truth: They are pyramid marketing schemes that enrich the MLM company and TOPP's (top of the pyramid promoters) at the expense of a multitude of downline victims!*

The assumption that multi-level marketing is a legitimate business model does not conform to results of recent research that shows a loss rate far greater than for no-product pyramid schemes. While it is conceivable that a compensation plan could be designed to reward fairly legitimate direct selling to actual customers who are not a part of the network. out of hundreds of MLM programs we have evaluated, no more than a three of them could qualify as legitimate retail-based programs.

And legitimate direct selling is disappearing form the American marketplace. Door-to-door selling is next to non-existent, with few exceptions. This is an outgrowth of the emergence of big box stores (Wal-Mart, etc.), Internet sales, and (unfortunately) chain selling..

Complaints received by the FTC represent only the tip of the iceberg of actual victims of pyramid marketing schemes.

Our research shows that statistics and rankings of consumer complaints received by the FTC for abuse by MLM/pyramid marketing schemes represent only a tiny fraction of actual victims. Those of us who have communicated with thousands of victims find that they rarely file complaints due to self-blame, fear of consequences to or from those still in the chain (often friends or close relatives), and fear or self-incrimination for having unwittingly deceived other victims they recruited into the chain. In order just to recoup recover their initial and ongoing "pay to play" investment, new recruits of necessity must recruit many others. So the victims become perpetrators until they run out of money and drop out.

In Utah, where I live, based on available data and consultation with MLM victims, less than one in 10,000 victims (including out-of-state victims of Utah-based schemes) ever files a complaint with Utah's Division of Consumer Protection. Of the many victims who have written or called us, even persons who have lost tens of thousands of dollars refuse to file complaints.

The Notice about the Business Opportunity Rule in the Federal Register stated that the FTC staff estimated there were 150 MLM companies. I have personally evaluated over 200 MLM programs out of several hundred that have been active. And new ones seem to be appearing almost daily.

*The MLM phenomenon and associated abuse is far greater than regulators have recognized, since much of their data is based on complaints filed***.** Careful analysis of the financial reports of publicly traded MLM companies, such as Amway, Nu Skin, Herbalife, USANA, and Prepaid Legal, reveal that the loss rates, aggregate losses, and number of victims are far more extensive than official complaints would suggest. So while complaints against pyramid marketing companies rank among the top 20 injury categories reported to the Commission, *actual injuries (included the vast majority of victims who fail to report) could easily place pyramid marketing schemes in the #1 position,, especially if overseas losses from US-based companies were included. Annually, the victims of these schemes number in the millions and the losses suffered by victims in the tens of billions of dollars.*

A federal level business opportunity disclosure rule is essential for consumer protection.

MLM promoters and DSA lobbyists and sympathizers talk of doing "due diligence" and of the responsibility of consumers to make informed decisions, but this is nearly impossible without availability of true information upon which to make such decisions. This is just as true of business opportunities as it is of investment securities – which have been required to make extensive financial disclosures. And when a company like Enron gives out false information, leading to losses of savings for thousands of investors, victims of the misrepresentations demand action. Why should business opportunity promoters be any more immune from disclosure than investors in securities?

Adequate disclosure could go a long way towards helping to prevent losses by victims in exploitive schemes. And state disclosure rules and other statutes are inadequate because MLM/pyramid marketing schemes by their very nature quickly spread across state lines and become unmanageable by state law enforcement agencies. To those familiar with the abuses, this appears the type of arena for which the FTC should require meaningful disclosure.

Twelve years' research convinces me that MLM is a business dependent on deception. I conclude that three things are required to be successful in a "recruiting MLM" or pyramid marketing scheme: (1) to be deceived, (2) to maintain a high level of self-deception, and (3) to aggressively go about deceiving others. The deceptions far exceed those of recent investment scandals, such as Enron or WorldCom. To view *30 typical misrepresentations engaged in MLM recruitment campaigns*, go to – http://www.mlm-thetruth.com/Misrepresentations-RecruitingMLMs.pdf

The Nu Skin disclosure case suggests some valuable lessons for FTC personnel considering a business opportunity disclosure rule.

In 1994, the FTC issued an Order for Nu Skin International, Inc., (now Nu Skin Enterprises) to cease and desist misrepresenting earnings of its distributors. In 1997 and 1998, Nu Skin officials did publish an "Average Earnings of Distributors" disclosure statement, but on close inspection, I found at least 20 subtle deceptions on the one-page report, *actually making the report seem favorable to unsophisticated prospects.*.

After I submitted a "REPORT OF VIOLATIONS" to FTC officials and filed (through Pyramid Scheme Alert) a petition seeking enforcement of the Order, Nu Skin made some changes, but these could not be considered satisfactory from a consumer protection perspective. The only major change that was positive was that Nu Skin stopped including retail sales that could not be proven to have occurred. Nu Skin also failed to make their new report "Distributor Compensation Summary" available to the general public – a clear violation of the intent of the Order.

A great many lessons can be learned from the Nu Skin case by those at the FTC who are charged with studying the issues and receiving public comments about the proposed Business Opportunity Disclosure Rule. I would strongly recommend that every person who is involved in the decision review the revised REPORT OF VIOLATIONS, especially Appendix G, which includes both the 2004 Nu Skin "Distributor Compensation Summary" and needed corrections. For the full Report of Violations of the FTC Order for Nu Skin to stop its misrepresentations, go to – http://www.mlm-thetruth.com/Complaint-2FTC-7-11-6-NS-OneCol.pdf (A hard copy of the full report is included with this submission.)

It should be clear from the latter report (especially Appendix G) that Nu Skin officials will do everything they can to avoid disclosing the type of information consumers need to make an informed choice about participation in t heir program. No intelligent person would join if he or she had the appropriate facts. The same could be said for any pyramid marketing (chain selling) scheme.

This is why the Direct Selling Assn (DSA), which has been taken over in recent years by companies sponsoring pyramid marketing (or chain selling) schemes, is so adamantly opposed to the new disclosure proposals. They would be even more resistant to more meaningful disclosures, such as money paid participants to the company for products and services as compared to what they receive in commissions and bonuses – and the entire participant population base from which successful participants where drawn in figuring success rates.

Only MEANINGFUL disclosure will provide any real protection.

One of the most important lessons to be drawn from the Nu Skin case is that *disclosure may or may not be helpful, and may in fact be misleading – unless the disclosure is honest and meaningful to prospects.*

Meaningful disclosure needed by prospects would include at least the following items of information:

1. All pyramid marketing schemes (including MLM and all other forms of chain selling) should be required to disclose and document earnings claims. They should not be given the option of claiming an exemption by stating that they are not making earnings claims – when they do lay out the potential for earnings in one way or another.

Explanation: The very fact that an MLM recruiter presents a program as a "business opportunity" or "income opportunity" suggests a positive income, a contradiction if the vast majority of recruits are destined by the design of the compensation plan to lose money. Recent research proves that only a tiny fraction (less than 1%) of participants at the top of a pyramid of participants in a product-based pyramid scheme actually profit after all expenses are subtracted.

2. Income disclosures of multi-level marketing companies must include at least these three items:

a. It must include the average NET (not gross) PAYOUT from the company, to participants in each level. Average net payout is the average of all monies received from the company by participants in each level minus the average of all moneys paid to the company by participants in each level. Expenditures paid to the company include ALL products and services purchased from the company, including license fees, shipping costs, books, audio and video tapes, training , motivation seminars, computer fees, etc. – whether used by participants, sold, stored, or disposed of.

Explanation: If a participant pays more to the company for products and services than he receives in commissions and bonuses, it should not be considered a profitable venture, whether or not the items are tax deductible. Prospects deserve to know whether or not they are likely to come out ahead, regardless of how much the company pays to them.

b. (From the FTC proposal) "The number and percent of all purchasers during the relevant time periods who achieved at least the claimed earnings**." It is important that purchasers who achieved the designated levels of earnings be compared with a number representing ALL purchasers who signed up to participate during the SAME TIME PERIOD – even if that includes all persons recruited since the inception of the company.**

Explanation: MLM companies that have published earnings of distributors at different levels have been allowed to compare the number of persons who have achieved different levels of earnings since the beginning of the company with only a tiny slice of the population that made the effort during the current time period. This hugely skews the statistics, making success appear far more likely than is actually the case. If all purchasers who achieved a certain level in a ten-year time period are counted, then ALL purchasers who signed up as participants in the scheme should be counted as the population from which the successful group was drawn.

c. The total number of ALL participants who joined in the past year should be reported, not just the so-called "active participants" in one part of a year – and the number of such participants remaining (still buying or selling products) at the end of the year, so that the current percentage of dropouts can be calculated.

Explanation: If prospects knew what percentage of ALL recruits drop out, they would have a better idea whether or not they would be one of them.

"5 Red Flags" of MLM schemes lead to huge losses, which should be disclosed.

IN 2001, I analyzed features of MLM and pyramid schemes and compared them with features of legitimate businesses with which MLM is often compared. After months of comparative analysis and discussions with top experts, *five characteristics became apparent that clearly distinguished chain or pyramid selling schemes from legitimate businesses.* This comparative analysis can be viewed at – http://www.mlm-thetruth.com/comparisons.htm

These features, which could be identified in the compensation plans of the MLM programs, clearly contributed to the high loss rates and helped to identify MLM's that were in violation of laws in most states, as well as FTC guidelines, suggesting that pyramid schemes emphasize income from recruitment, rather than from sales of products to non-participants in the scheme. In fact, wherever I could get the earnings reports of participants in MLM's (with these "5 Red Flags" in their pay plan), *approximately 99.9% of ALL participants (including dropouts) lost money, after subtracting ALL expenses*, including "incentivized purchases" (applying to qualification for commissions or bonuses) of goods and services from the company. *The odds of profiting from some gaming tables in Las Vegas are far better. MLM's even make obviously illegal no-product pyramid schemes look profitable in comparison.* To see these statistics displayed, go to – http://www.mlm-thetruth.com/Compare%2010%20MLMs-vsSellingvsNPSvsVegas-2p-barchart-July05.pdf

For a summary of all my research on these "5 Red Flags of a Product-based Pyramid Scheme, or Recruiting MLM," which was presented at the 2004 Economic Crime Summit Conference (sponsored by the National White Collar Crime Center), go to – http://www.mlm-thetruth.com/5RedFlags2column40pages2Color3-6.pdf

The presentation itself can be viewed by clicking on the link from Item #8 at the following web address – http://www.mlm-thetruth.com/law_enforcement.htm

My statistical analyses required some debunking of deceptions inherent in much of the MLM reporting, including (1) assuming retail sales that did not occur, (2) counting only "active" participants and ignoring dropouts, and (3) reporting commissions and bonuses as "earnings" without subtracting costs – primarily payments to the company. *Requirements for earnings disclosure for investments and franchises would not allow such skewed reporting of income statistics.*

Robert Fitzpatrick, president of Pyramid Scheme Alert, wrote *"The Myth of Income Opportunity in Multi-level Marketing," which basically confirmed my findings*, except that he used company statistics without any attempt to debug the deceptions in their reporting. He found that even with company-supplied statistics, *the average weekly income of seven MLM's ranged from $1.68 to $16.57 per week***.** After subtracting "incentivized purchases" and operating expenses, it can be assumed that nearly all but a few of the TOPP's would report a loss. His report can be found at - http://www.falseprofits.com/MythofMLMIncome.doc.pdf .

Research on income taxes of MLM participants proves need for disclosure.

In 1997, I wrote the book *The Network Marketing Game*, which exposed the ethical problems of exploiting and deceiving others for personal gain. While on a speaking tour promoting the book, *I got feedback from tax accountants who asked why – with all the promises of MLM promoters of "residual income" – they were not seeing profits reported on tax returns of MLM participants***.** I decided to interview other tax professionals – almost 300 of them over a period of several years. I also interviewed programmers of tax

software and persons involved in seminars for tax professionals. *With a total of over two million tax returns represented, a clear picture emerged of who was making money in MLM – the TOPP's (top of the pyramid promoters), at the expense of huge downlines of participants/victims who lost money.* This seemed to confirm the findings of Bruce Craig, an Assistant Attorney General for the state of Wisconsin in the 1970's. He discovered that net income on tax returns of the top 1% of Amway dealers in Wisconsin was minus $900!

My tax study revealed that the profits of MLM companies and of the TOPP's are fed by a revolving door of recruits, an endless chain of participants as primary (and sometimes only) customers. Actual sales to end users not in the network were insignificant. In Utah County, which leads the nation in per capita participation in and sponsorship of MLM's, *one survey showed FOUR MLM distributors for every ONE customer!* The details of these tax studies can be found at the following web address – http://www.mlm-thetruth.com/tax_study.htm (Hard copies of these reports have been supplied to the Commission.)

Based on these tax studies, I would wager that of the thousands of Public Comments already received by FTC officials from MLM adherents that oppose the new disclosure rule, the vast majority did not report a profit on their income taxes from MLM participation – except for those who are TOPP's!

Checking a "No" box for earnings claims presents a contradiction for MLM companies.

The FTC proposal offers the option for promoters of a business opportunity to declare that they are not making earnings claims by checking a "no" box in the Earnings category. *However, it is misleading for MLM promoters to suggest a program is a "business opportunity" or "income opportunity" if in fact it leads to almost certain loss – except for those at or near the top of the pyramid. In the case of MLM/pyramid marketing schemes with the "5 Red Flags" in the compensation plans, recent evidence demonstrates that 99% of participants lose money, after subtracting money paid in to the company for products and services – with even greater losses (99.9%) if operating expenses are subtracted.*

So the option of an MLM not making earnings claims would be a contradiction and would mislead consumers into thinking it is an income opportunity when in fact it will lead to almost certain loss. The only exception should be when the promoters do not label it as any kind of "income opportunity" or "business opportunity," because such terms strongly suggest that it is a legitimate business and that positive earnings are likely with effort – and not just recruiting effort.

A waiting period, coupled with encouragement to search the web and other sources for detailed information, would be a great protection.

FTC officials, please don't allow MLM promoters and the Direct Selling Association (which now represents chain sellers and MLM/pyramid marketing schemes) to discourage you from requiring a reasonable waiting period, that would allow prospects time to find and read web sites of organizations that present detailed and critical guides for evaluating MLM/pyramid marketing schemes.

I support a three-day waiting period for any investment exceeding $50 (including "incentivized" product purchases – tied to qualifications for commissions or advancement in the scheme) in any MLM/pyramid marketing scheme, so long as it is coupled with encouragement to do a web-based search for information that would give more than cursory information on these schemes. Such sites include www.mlm-thetruth.com and www.pyramidschemealert.org, both of which provide links to other helpful sites. Such detailed information about companies and how to evaluate the specifics of their programs (loss rates correlated with the "5 Red Flags" in their compensation plans, etc.) is not available elsewhere. Only very generalized suggestions are offered on the web sites sponsored by the FTC, state AG or consumer protection offices, or the Better Business Bureau.

"Ten prior purchasers" should be split between current and ex-participants in MLM programs.

The list of ten prior purchasers is potentially a problem, as they could be turned into de facto shills, unless a random selection from all participants in an area was made, including from dropouts. At the very least, five of those could be current participants, and *five should be ex-participants*, both as close as possible to the prospect's area. Referrals to ex-participants are extremely important, since statistics show that the vast majority of new MLM recruits will soon become ex-participants (dropouts), or victims.

The chief opponents to the new rule – the Direct Selling Association (DSA) and member MLM/chain selling companies – regularly deceive and have a lot to lose from an honest and meaningful disclosure rule.

From extensive research cited above, it can be seen that disclosure of true and meaningful information about MLM/pyramid marketing schemes could have a devastating effect on their recruitment campaigns. They depend for their survival and growth on a whole set of misrepresentations which mislead and defraud millions of victims worldwide.

The DSA itself engages in a number of deceptive practices in its communications and lobbying efforts. Merely referring to MLM as "direct selling" is deceptive. The DSA does a decent job of defining what direct selling is – "the sale of a consumer product or service, person-to-person, away from a fixed retail location." But it blatantly fails to explain what legitimate direct selling is NOT – recruitment of an endless chain of participants as primary customers. As such, it would be far more accurate to refer to DSA member firms as "chain sellers" rather than as "direct sellers."

The DSA has initiated extremely clever and deceptive legislation to weaken state statutes, which hitherto protected consumers against pyramid schemes. Using deceptive tactics, they have been successful in several states. The DSA has sought passage of amendments to state Pyramid Scheme statutes exempting MLM's from prosecution as pyramid schemes or removing the requirement for direct selling to non-participants from existing statutes. This belies their claim to represent only legitimate direct sellers. In fact, at the 2006 Utah State legislative hearings, I witnessed the DSA representative blatantly misrepresent the FTC's stance on income from sales to non-participants in the scheme.

In legislative hearings, statistics cited by the DSA to show how successful and well-received are their MLM firms nearly always lump legitimate direct sellers together with chain sellers – and never including the dropouts in MLM programs, which make up the majority of recruits in any given year.

The DSA engages in the web version of identity theft. As further evidence that the DSA, like the MLM industry that supports it, engages in misrepresentations and deceptive practices to carry off its programs, go to the PSA web site at www.pyramidschemealert.org. When PSA was developed and financed as a non-profit organization, the web site developer was given the option of registering its domain name with the suffix ".org." But as soon as these guidelines were lifted, the DSA registered other domain name suffixes for pyramidschemealert. Try adding ".com" or ".net" and see what happens. Not only has the DSA registered these domain names, but it has advertised them on sponsored cites related to MLM. This identity diversion is the web version of identity theft, but was no surprise to those who knew of the pattern of deceptive marketing practices routinely used by the DSA and by the MLM industry.

Please allow myself and others who have appropriate education and experience and who have conducted extensive research represent consumers in a forum on business opportunity disclosure requirements.

There are so many opinions being expressed on this issue that it would seem to me to be genuinely helpful for the FTC to sponsor a forum examining research and the pros and cons of requiring a meaningful business opportunity disclosure rule, particularly as it relates to MLM or pyramid marketing schemes – which have acquired a dominant position in the field of sales of business opportunities. This is too important an issue to give it superficial treatment.

Since I have performed more research than anyone on the correlation of MLM marketing operations and compensation plans to earnings and/or losses by participants, I would like to be one of those selected to present such research on behalf of consumers. Another person I would recommend would be Robert Fitzpatrick, President of Pyramid Scheme Alert, who will be writing you shortly.

A review of my vita will show that by education, experience, and both experiential and objective research, I have a lot to offer in the field of consumer protection as it relates to all types of business opportunities. This vita can be downloaded at **–**
http://www.mlm-thetruth.com/JMTaylorVITA6-6.pdf

The recommendations below are based on extensive research.

Based on the above-mentioned research and comments, I strongly recommend the following provisions for the Business Opportunity Disclosure Rule:

1. Somehow separate disclosure for chain selling or MLM/pyramid marketing schemes from all other forms of business opportunity. They are worlds apart, as the "5 Red Flags" report cited above makes clear. The former depend on recruitment of an endless chain of participants as primary purchasers, while the latter does not.

2. *If the MLM/pyramid marketing scheme presents itself as an income or "business opportunity," that in itself must be regarded as making earnings claims, since it implies the possibility of profits, rather than losses* – and not just for those at or near the top of their respective pyramids (or hierarchy of participants). This is important because recent four research studies clearly demonstrate that over 99% of participants in these programs lose money – if all recruits are counted and all costs are subtracted. So if MLM promoters claim their program is a "business" or "income opportunity," and not a pyramid marketing scheme, they should disclose earnings to support that claim.

3. *Require at least a 3-day waiting period before purchases or fees in excess of $50 total are made by prospects in endless chain recruitment schemes, combined with encouragement to search the Internet for information on MLM and on specific companies.* Merely referring them to the FTC, the Better Business Bureau, or to state consumer protection agencies is insufficient, since very little information is presented by these organizations about specific companies or how to do a thorough evaluation.

4. To report commissions and bonuses to participants as "earnings" or as "income" without reporting costs, is misleading. *If participants pay more in to a company than they receive back, it should not be considered a profitable enterprise.* In standard accounting practice, the bottom line is NET income, not total revenue.

At a bare minimum in disclosure documents, MLM companies should report BOTH revenues paid out to participants – and ALL payments made by participants back to the company for ALL products and services. It would be preferable to report actual operating expenses as well, but that would be cumbersome for thousands of participants. However, *MLM companies could easily report all moneys paid to participants (in one column), and all moneys paid by participants back to the company for products and services (in another column) – whether such products are consumed, given as samples, stored, or disposed of. If such products and services count for volume or qualification in any way for commissions, discounts, or to advance in the scheme, they should be counted as a cost of doing business for analytical (not necessarily tax) purposes.*

5. *Some accounting of total recruits for a given year, coupled with the total remaining at the end of the year, would be helpful.* At the very least, cancellation and refund requests should be reported. But experience suggests that only a tiny percentage (approximately 3½% for Nu Skin) seek a refund, even though recruited on the basis of numerous deceptions. It usually takes months, or even years, to become deprogrammed or aware of the fact that they have been deceived when they were recruited.

6. Reports of prior business experience is helpful, as is prior litigation, especially anything that would suggest illegal behavior, even if not found guilty.

7. The disclosure document should be in large and readable type and not cluttered with extraneous material.

8. (From the FTC proposal) "The number and percent of all purchasers during the relevant time period who have achieved at least the claimed earnings." This is good, but again, provided money paid back to the company is reported. *Some who apparently earned a lot of money will show a loss after subtracting the money paid to the company for products and services. Research suggests that purchases by participants is what supports most MLM companies.*

9. *All misrepresentations should be forbidden,* including the prevalent practice of the DSA and MLM adherents of presenting MLM/pyramid marketing schemes as "direct selling programs." *Nearly all MLM's are chain selling programs, dependent on an endless chain of recruitment of participants as primary customers.*

10. The ten referrals could amount to nothing more than shills, unless they were randomly assigned from the area in which the promoter is recruiting. *At the very least, five of those referrals should be from ex-participants.*

11. Record retention related to participation lists and earnings and purchases of distributors should be retained for at least five years. In the Nu Skin case cited above, when asked about distributors who had dropped out, the CFO responded that this was "information that they did not consider material!" What could be more "material" or relevant to prospects than data regarding retention and past earnings?

12. With all the complaints (in "public comments") coming in from MLM adherents for having an "undue burden" placed upon them, I hope the Commission will weigh this burden against the much larger burden of losses suffered by victims of MLM/pyramid marketing schemes. Those who complain about the burden of disclosure should read the details that public stock companies are required to disclose. No one in the field of investment securities insists that such disclosures are not necessary for investors to make informed choices. Even Enron reporting was far more open and honest than most MLM's in their representations to investors in their programs . Though the investments are in products and services, not securities, it IS an investment deserving of honest and meaningful disclosure.

Please note that if it would be helpful to present the extensive research I have done on disclosure issues related to MLM/pyramid marketing schemes, I and other experts associated with Pyramid Scheme Alert would be happy to appear in hearings or in a workshop for FTC officials and consumer advocates. I would also be willing to serve the Commission in a consulting capacity in sorting out the complex issues related to disclosure, as I have the broad-based experience and have performed extensive research in this field as an independent analyst – not dependent on income from any MLM or from the DSA. This is too important an issue to give it superficial treatment.

Thank you for reviewing and posting my comments. I firmly believe that the research information supplied by myself (and by Robert Fitzpatrick, President of Pyramid Scheme Alert) can take the disclosure debate out of the realm of mere preferences and opinions and squarely into the realm of facts and realities. And I congratulate the Commission for considering this important new rule.

Sincerely,

Jon M. Taylor, Ph.D., President, Consumer Awareness Institute, and Advisor, Pyramid Scheme Alert